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To: Examiner Pickard; Group 3676
Recipient Fax: 571-273-8300

Enclosed is an Appeal Brief (3 copies) in S.N.10/630723.

Sincerely,
Patent & Trademark Service

By: Joseph H. McGlynn

Joseph H. McGlynn

TRANSMITTAL OF APPEAL BRIEF (Small Entity)

Docket No.
JHM704

In Re Application of: Joseph Bartle

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Serial No.	Filing Date		Examiner	Group Art Unit
10/630723	7/31/03		Pickard	3676

SEP 28 2005

Invention:	Cinchpac Self-Loading Rotary Shaft Seal
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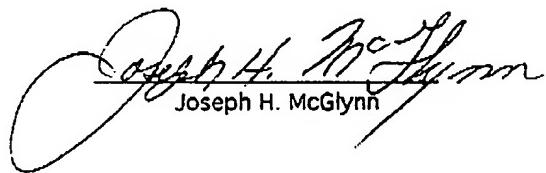
TO THE ASSISTANT COMMISSIONER FOR PATENTS

Transmitted herewith in triplicate is the Appeal Brief in this application.

The Notice of Appeal was filed 8/1/05

Applicant is a small entity under 37 CFR 1.9 and 1.27.

A verified statement of Small Entity Status has already been filed in this application.

The fee for filing this Appeal Brief is: \$250.00 and a credit card charge in that amount is enclosed.
Joseph H. McGlynn9/28/05
Dated

Certificate of Transmission Under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on 9/28/05 for S.N.10/630723
Date

By: Joseph H. McGlynn

Joseph H. McGlynn

/Joseph H. McGlynn/
signature

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- Amendment
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Serial No. 10/630723

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant(s): Joseph Bartle
Serial No.: 10/630723
Filed: 7/31/03

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Serial No.: 10/630723
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Appeal No.: Unknown
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Docket No.: JHM704

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Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

Enclosed is an appeal from the final rejection dated May 4, 2005, finally rejecting claims 2, 3 and 8 - 14. Claims 1 and 4 - 7 have been canceled. No claims are allowed.

REAL PARTY IN INTEREST

The party identified in the caption of the brief is the real party in interest.

09/29/2005 TL0111 00000039 10630723
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RELATED APPEALS OR INTERFERENCES

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GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Grounds of Rejection in this appeal are:

- 1) Claims 2, 3, 8, and 14 are rejected under 35 USC 102(e) as being anticipated by Chu.
- 2)) Claims 2, 3, and 8 - 14 are rejected under 35 USC 103(a) as being unpatentable over Bowers in view of Hawley in view of Chu.

The claims stand or fall together.

ARGUMENTS

With respect to the rejection of claim 14 under 35 USC 102(e) as being anticipated by Chu, this rejection is improper because claim 14 contains a limitation that is not disclosed by Chu. Claim 14 , lines 11 and 12 require,

"wherein said grooves form passageways between said lands, and wherein said passageways are serpentine".

In order to meet this structure the examiner points out col. 5, lines 19 - 23, of Chu and further states, The grooves form serpentine passageways... since lands are serpentine, grooves between them would be too".

First, the cited lines in Chu do not state the grooves form serpentine passageways, as alleged by the examiner. Chu refers to the deformations

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16 as "ribs, holes, bumps, divots, dimples, woven or non-woven mesh, passages, channels and/or undulations", however, nowhere does Chu state the lands are serpentine. Therefore, since claim 14 contains a limitation that is not disclosed by Chu, the rejection under 35 USC 102 is improper and should be reversed.

Also, it would not be obvious to make the deformations 16 of Chu serpentine since Chu relies on the passages between deformations 16 to "allow a lubricant such as oil or heat conducting grease to spread throughout the inner wear ring liner 3" (see col. 6, lines 23 - 27). Appellant, on the other hand, relies on the labyrinth seal, formed by the serpentine passageways, to "eliminate leakage paths between the boot and the shaft" (see page 5, lines 3 - 5). In order for the passageways of Chu to perform their intended function they could not be serpentine since this would block the spread of lubricant throughout the inner wear ring 3 of Chu.

With respect to the rejection of claim 14 under 35 USC 103(a) as being unpatentable over Bowers in view of Hawley in view of Chu, this rejection is improper for the same reasons given above with respect to the rejection of claim 14 under 35 USC 102, and should be reversed. The examiner states (on page 3, lines 13 and 14) "Chu teaches different shapes of lands and grooves used on a sealing member including a serpentine shape. As pointed out above, Chu does not disclose serpentine passageways between the undulations 16. In fact Chu cannot make his passageways serpentine since this would block the spread of lubricant throughout the inner wear ring 3 of Chu, thereby making the

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passageways of Chu inoperative for their intended function. Therefore, the rejection of claim 14 is, again, improper and should be reversed.

In response to appellant's arguments in the amendment filed February 15, 2005, the examiner states, "Applicant's specification makes no mention of the serpentine shape". Original claim 7 states that the passageways are serpentine. Since the claims are part of the disclosure, the examiner's statement is untrue.

Also, the serpentine shape is not a design choice, since it performs a critical function, i.e. it eliminates leakage paths between the boot and the shaft. This structure is not disclosed in any of the cited art and, in fact, as pointed out above, the prior art (Chu) teaches away from the serpentine path because his device requires lubricant, such as oil or heat conducting grease, to spread through the passageways. If the passageways of Chu were serpentine they would block spreading of the lubricant.

CONCLUSION

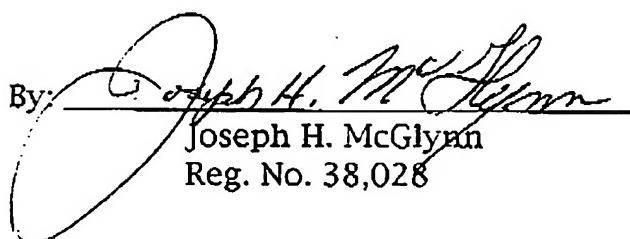
Appellant respectfully submits that the references relied upon by the examiner fails to suggest or teach the configuration of the claimed invention, and that the rejections relying upon the art of record are improperly founded both in fact and in law. Therefore, the examiner's rejections should be reversed and a decision rendered favorable to the appellant.

Accordingly, the Honorable Board of Patent Appeals and Interferences is respectfully requested to reverse the examiner's rejections

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of claims 2, 3, and 8 - 14 under 35 USC 102 and 103 and to render a decision favorable to appellant.

Respectfully submitted,
Patent & Trademark Services, Inc.TM

By: 
Joseph H. McGlynn
Reg. No. 38,028

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CLAIMS APPENDIX

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Claim 2. The seal assembly as claimed in claim 14, wherein said aperture extends horizontally through said seal element.

Claim 3. The seal assembly as claimed in claim 14, wherein said means comprises a plurality of lands extending around said aperture.

Claim 8. The seal assembly as claimed in claim 14, wherein said seal system has means for compressing said seal element around said rotating shaft.

Claim 9. The seal assembly as claimed in claim 8, wherein said means for compressing said seal element around said rotating shaft comprises a body block,

said body block having an aperture therein,

a rotator cup positioned in said aperture in said body block, and

said rotator cup engages an external surface of said seal element,

and

means for compressing said rotator cup against said seal element, which in turn compresses said seal element.

Claim 10. The seal assembly as claimed in claim 9, wherein said means for compressing said rotator cup against said seal element comprises at least one plate.

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Claim 11. The seal assembly as claimed in claim 10, wherein said at least one plate is secured to said body block and engages said rotator cup.

Claim 12. The seal assembly as claimed in claim 9, wherein said body block has means for flushing an area around said seal element.

Claim 13. The seal assembly as claimed in claim 12, wherein said means for flushing an area around said seal element comprises a passageway extending from an exterior portion of said body block.

Claim 14. A seal assembly for a rotating shaft, said seal assembly comprising:

a seal element,
said seal element having an aperture extending therethrough,
said seal element having means for securing said seal element to an external portion of a rotating shaft,
said means being formed in said aperture extending through said seal element, and
wherein said means are lands, and
wherein there are grooves extending between said lands, and
wherein said grooves form passageways between said lands, and
wherein said passageways are serpentine.

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EVIDENCE APPENDIX

NONE

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RELATED PROCEEDINGS
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Applicant(s): Joseph Bartle
Serial No.: 10/630723
Filed: 7/31/03

Appeal No.: Unknown
Group: 3676
Examiner: Pickard

Title: Cinchpac Self-Loading Rotary Shaft Seal

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Also, it would not be obvious to make the deformations 16 of Chu serpentine since Chu relies on the passages between deformations 16 to "allow a lubricant such as oil or heat conducting grease to spread throughout the inner wear ring liner 3" (see col. 6, lines 23 – 27). Appellant, on the other hand, relies on the labyrinth seal, formed by the serpentine passageways, to "eliminate leakage paths between the boot and the shaft" (see page 5, lines 3 – 5). In order for the passageways of Chu to perform their intended function they could not be serpentine since this would block the spread of lubricant throughout the inner wear ring 3 of Chu.

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Also, the serpentine shape is not a design choice, since it performs a critical function, i.e. it eliminates leakage paths between the boot and the shaft. This structure is not disclosed in any of the cited art and, in fact, as pointed out above, the prior art (Chu) teaches away from the serpentine path because his device requires lubricant, such as oil or heat conducting grease, to spread through the passageways. If the passageways of Chu were serpentine they would block spreading of the lubricant.

CONCLUSION

Appellant respectfully submits that the references relied upon by the examiner fails to suggest or teach the configuration of the claimed invention, and that the rejections relying upon the art of record are improperly founded both in fact and in law. Therefore, the examiner's rejections should be reversed and a decision rendered favorable to the appellant.

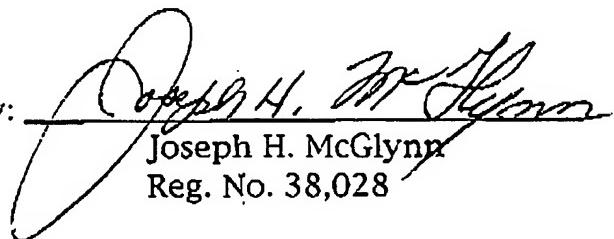
Accordingly, the Honorable Board of Patent Appeals and Interferences is respectfully requested to reverse the examiner's rejections

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of claims 2, 3, and 8 - 14 under 35 USC 102 and 103 and to render a decision favorable to appellant.

Respectfully submitted,
Patent & Trademark Services, Inc.™

By:



Joseph H. McGlynn
Reg. No. 38,028

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CLAIMS APPENDIX

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Claim 2. The seal assembly as claimed in claim 14, wherein said aperture extends horizontally through said seal element.

Claim 3. The seal assembly as claimed in claim 14, wherein said means comprises a plurality of lands extending around said aperture.

Claim 8. The seal assembly as claimed in claim 14, wherein said seal system has means for compressing said seal element around said rotating shaft.

Claim 9. The seal assembly as claimed in claim 8, wherein said means for compressing said seal element around said rotating shaft comprises a body block,

said body block having an aperture therein,
a rotator cup positioned in said aperture in said body block, and
said rotator cup engages an external surface of said seal element,
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means for compressing said rotator cup against said seal element,
which in turn compresses said seal element.

Claim 10. The seal assembly as claimed in claim 9, wherein said means for compressing said rotator cup against said seal element comprises at least one plate.

Serial No. 10/630723

Claim 11. The seal assembly as claimed in claim 10, wherein said at least one plate is secured to said body block and engages said rotator cup.

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said means being formed in said aperture extending through said seal element, and

wherein said means are lands, and

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EVIDENCE APPENDIX

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RELATED PROCEEDINGS APPENDIX

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CONCLUSION

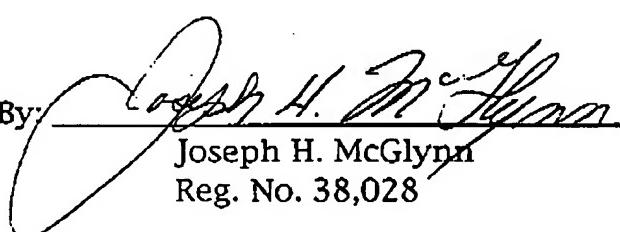
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CLAIMS APPENDIX

Page 8

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Claim 3. The seal assembly as claimed in claim 14, wherein said means comprises a plurality of lands extending around said aperture.

Claim 8. The seal assembly as claimed in claim 14, wherein said seal system has means for compressing said seal element around said rotating shaft.

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Serial No. 10/630723

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said seal element having means for securing said seal element to an external portion of a rotating shaft,
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